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required by § 308.7(n), but none shall be stated, utilized, or placed so as to mislead or confuse the customer or contradict, obscure, or detract attention from the information required to be disclosed. The disclosures required by § 308.7(n) shall appear separately and above any other disclosures.

(o) *Multiple billing entities.* If a telephone-billed purchase involves more than one billing entity, only one set of disclosures need be given, and the billing entities shall agree among themselves which billing entity must comply with the requirements that this regulation imposes on any or all of them. The billing entity designated to receive and respond to billing errors shall remain the only billing entity responsible for complying with the terms of § 308.7(d). If a billing entity other than the one designated to receive and respond to billing errors receives notice of a billing error as described in § 308.7(b), that billing entity shall either: (1) Promptly transmit to the customer the name, mailing address, and business telephone number of the billing entity designated to receive and respond to billing errors; or (2) transmit the billing error notice within fifteen (15) days to the billing entity designated to receive and respond to billing errors. The time requirements in § 308.7(d) shall not begin to run until the billing entity designated to receive and respond to billing errors receives notice of the billing error, either from the customer or from the billing entity to whom the customer transmitted the notice.

(p) *Multiple customers.* If there is more than one customer involved in a telephone-billed purchase, the disclosures may be made to any customer who is primarily liable on the account.

### § 308.8 Severability.

The provisions of this rule are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

### § 308.9 Rulemaking review.

No later than four years after the effective date of this Rule, the Commission shall initiate a rulemaking review

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proceeding to evaluate the operation of the rule.

## PART 309—LABELING REQUIREMENTS FOR ALTERNATIVE FUELS AND ALTERNATIVE FUELED VEHICLES

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APPENDIX A TO PART 309—FIGURES FOR PART 309

AUTHORITY: 42 U.S.C. 13232(a).

SOURCE: 60 FR 26955, May 19, 1995, unless otherwise noted.

### Subpart A—General

#### § 309.1 Definitions.

As used in subparts B and C of this part:

(a) *Acquisition* includes either of the following:

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(1) Acquiring the beneficial title to a covered vehicle; or

(2) Acquiring a covered vehicle for transportation purposes pursuant to a contract or similar arrangement for a period of 120 days or more.

(b) *Aftermarket conversion system* means any combination of hardware which allows a vehicle or engine to operate on a fuel other than the fuel which the vehicle or engine was originally certified to use.

(c) *Alternative fuel* means

(1) Methanol, denatured ethanol, and other alcohols;

(2) Mixtures containing 85 percent or more by volume of methanol, denatured ethanol, and/or other alcohols (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions), with gasoline or other fuels;

(3) Natural gas;

(4) Liquefied petroleum gas;

(5) Hydrogen;

(6) Coal-derived liquid fuels;

(7) Fuels (other than alcohol) derived from biological materials;

(8) Electricity (including electricity from solar energy); and

(9) Any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits.

(d)(1) *Consumer* in subpart C means an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States.

(2) *Consumer or ultimate purchaser* in subpart B means, with respect to any non-liquid alternative vehicle fuel (including electricity), the first person who purchases such fuel for purposes other than resale.

(e) *Conventional fuel* means gasoline or diesel fuel.

(f) *Covered vehicle* means either of the following:

(1) A dedicated or dual fueled passenger car (or passenger car derivative) capable of seating 12 passengers or less; or

(2) A dedicated or dual fueled motor vehicle (other than a passenger car or

passenger car derivative) with a gross vehicle weight rating less than 8,500 pounds which has a vehicle curb weight of less than 6,000 pounds and which has a basic vehicle frontal area of less than 45 square feet, which is:

(i) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or

(ii) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3) Any vehicle that is—

(i) A new qualified fuel cell motor vehicle (as defined in 26 U.S.C. 30B(b)(3));

(ii) A new advanced lean burn technology motor vehicle (as defined in 26 U.S.C. 30B(c)(3));

(iii) A new qualified hybrid motor vehicle (as defined in 26 U.S.C. 30B(d)(3)); or

(iv) Any other type of vehicle that the Administrator of the Environmental Protection Agency demonstrates to the Secretary would achieve a significant reduction in petroleum consumption.

(g) *Dedicated* means designed to operate solely on alternative fuel.

(h) *Distributor* means any person, except a common carrier, who receives non-liquid alternative vehicle fuel (other than electricity) and distributes such fuel to another person other than the consumer. It also means any person, except a common carrier, who receives an electric vehicle fuel dispensing system and distributes such system to a retailer.

(i) *Dual fueled* means capable of operating on alternative fuel and capable of operating on conventional fuel.

(j) *Electric charging system equipment* means equipment that includes an electric battery charger and is used for dispensing electricity to consumers for the purpose of recharging batteries in an electric vehicle.

(k) *Electric vehicle* (“EV”) means a vehicle designed to operate exclusively on electricity stored in a rechargeable battery, multiple batteries, or battery pack.

(l) *Electric vehicle fuel dispensing system* means electric charging system equipment or an electrical energy dispensing system.

(m) *Electrical energy dispensing system* means equipment that does not include

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an electric charger and is used for dispensing electricity to consumers for the purpose of recharging batteries in an electric vehicle that contains an on-board electric battery charger.

(n) *Emission certification standard* means the emission standard to which a covered vehicle has been certified pursuant to 40 CFR parts 86 and 88.

(o) *Estimated cruising range* for non-EVs means a manufacturer's reasonable estimate of the number of miles a new covered vehicle will travel between refueling, expressed as a lower estimate (i.e., minimum estimated cruising range) and an upper estimate (i.e., maximum estimated cruising range), as determined by § 309.22. Estimated cruising range for EVs means a manufacturer's reasonable estimate of the number of miles a new covered EV will travel between recharging, expressed as a single estimate, as determined by § 309.22.

(p) *Fuel dispenser* means:

(1) For non-liquid alternative vehicle fuels (other than electricity), the dispenser through which a retailer sells the fuel to consumers.

(2) For electric vehicle fuel dispensing systems, the dispenser through which a retailer dispenses electricity to consumers for the purpose of recharging batteries in an electric vehicle.

(q) *Fuel rating* means:

(1) For non-liquid alternative vehicle fuels (other than electricity), including, but not limited to, compressed natural gas and hydrogen gas, the commonly used name of the fuel with a disclosure of the amount, expressed as a minimum molecular percentage, of the principal component of the fuel. A disclosure of other components, expressed as a minimum molecular percentage, may be included, if desired.

(2) For electric vehicle fuel dispensing systems, a common identifier (such as, but not limited to, "electricity," "electric charging system," "electric charging station") with a disclosure of the system's kilowatt ("kW") capacity, voltage, whether the voltage is alternating current ("ac") or direct current ("dc"), amperage, and whether the system is conductive or inductive.

(r) *Manufacturer* means the person who obtains a certificate of conformity that the vehicle complies with the standards and requirements of 40 CFR parts 86 and 88.

(s) *Manufacturer of an electric vehicle fuel dispensing system* means any person who manufactures or assembles an electric vehicle fuel dispensing system that is distributed specifically for use by retailers in dispensing electricity to consumers for the purpose of recharging batteries in an electric vehicle.

(t) *New covered vehicle* means a covered vehicle which has not been acquired by a consumer.

(u) *New vehicle dealer* means a person who is engaged in the sale or leasing of new covered vehicles.

(v) *New vehicle label* means a window sticker containing the information required by § 309.20(e).

(w) *Non-liquid alternative fueled vehicle* means a vehicle capable of operating on a non-liquid alternative vehicle fuel.

(x) *Non-liquid alternative vehicle fuel* means alternative fuel used for the purpose of powering a non-liquid alternative fueled vehicle, including, but not limited to, compressed natural gas ("CNG"), hydrogen gas ("hydrogen"), electricity, and any other non-liquid vehicle fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy benefits and substantial environmental benefits.

(y) *Person* means an individual, partnership, corporation, or any other business organization.

(z) *Producer* means any person who purchases component elements and combines them to produce and market non-liquid alternative vehicle fuel (other than electricity).

(aa) *Refiner* means any person engaged in the production or importation of non-liquid alternative vehicle fuel (other than electricity).

(bb) *Retailer* means any person who offers for sale, sells, or distributes non-liquid alternative vehicle fuel (including electricity) to consumers.

(cc) *Secretary* means the Secretary of the United States Department of Energy.

(dd) *Vehicle fuel tank capacity* means the tank's usable capacity (i.e., the volume of fuel that can be pumped into the tank through the filler pipe with the vehicle on a level surface and with the unusable capacity already in the tank). The term does not include unusable capacity (i.e., the volume of fuel left at the bottom of the tank when the vehicle's fuel pump can no longer draw fuel from the tank), the vapor volume of the tank (i.e., the space above the fuel tank filler neck), or the volume of the fuel tank filler neck.

[60 FR 26955, May 19, 1995, as amended at 78 FR 23835, Apr. 23, 2013]

**§ 309.2 What this part does.**

This part establishes labeling requirements for non-liquid alternative vehicle fuels, and for certain vehicles powered in whole or in part by alternative fuels.

**§ 309.3 Stayed or invalid portions.**

If any portion of this part is stayed or held invalid, the rest of it will stay in force.

**§ 309.4 Preemption.**

Inconsistent state and local regulations are preempted to the extent they would frustrate the purposes of this part.

**Subpart B—Requirements for Alternative Fuels**

DUTIES OF IMPORTERS, PRODUCERS, AND REFINERS OF NON-LIQUID ALTERNATIVE VEHICLE FUELS (OTHER THAN ELECTRICITY) AND OF MANUFACTURERS OF ELECTRIC VEHICLE FUEL DISPENSING SYSTEMS

**§ 309.10 Alternative vehicle fuel rating.**

(a) If you are an importer, producer, or refiner of non-liquid alternative vehicle fuel (other than electricity), you must determine the fuel rating of all non-liquid alternative vehicle fuel (other than electricity) before you transfer it. You can do that yourself or through a testing lab. To determine fuel ratings, you must possess a reasonable basis, consisting of competent and reliable evidence, for the minimum percentage of the principal component

of the non-liquid alternative vehicle fuel (other than electricity) that you must disclose, and for the minimum percentages of other components that you choose to disclose. For the purposes of this section, fuel ratings for the minimum percentage of the principal component of compressed natural gas are to be determined in accordance with test methods set forth in American Society for Testing and Materials ("ASTM") D 1945-91, "Standard Test Method for Analysis of Natural Gas by Gas Chromatography." For the purposes of this section, fuel ratings for the minimum percentage of the principal component of hydrogen gas are to be determined in accordance with test methods set forth in ASTM D 1946-90, "Standard Practice for Analysis of Reformed Gas by Gas Chromatography." This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of D 1945-91 and D 1946-90 may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103, or may be inspected at the Federal Trade Commission, Public Reference Room, room 130, 600 Pennsylvania Avenue, NW, Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) If you are a manufacturer of electric vehicle fuel dispensing systems, you must determine the fuel rating of the electric charge delivered by the electric vehicle fuel dispensing system before you transfer such systems. To determine the fuel rating of the electric vehicle fuel dispensing system, you must possess a reasonable basis, consisting of competent and reliable evidence, for the following output information you must disclose: kilowatt ("kW") capacity, voltage, whether the voltage is alternating current ("ac") or direct current ("dc"), amperage, and whether the system is conductive or inductive.

[60 FR 26955, May 19, 1995, as amended at 69 FR 18803, Apr. 9, 2004]